

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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SAMUEL ABRAHAM,

Plaintiff,

-vs-

5:15-CV-1387  
(TJM/DEP)

USA, *et al.*,

Defendants.

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**Thomas J. McAvoy,  
United States District Judge**

**DECISION and ORDER**

This matter was referred to the Hon. David E. Peebles, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Rule 72.3(d) of the Local Rules of the Northern District of New York in this case involving claims brought pursuant to 42 U.S.C. § 1983.

Plaintiff brought this case along with a motion to proceed *in forma pauperis* ("IFP"). See dkt. # 1. Magistrate Judge Peebles granted the motion for leave to proceed IFP. After reviewing the Complaint as required by 28 U.S.C. § 1915(e), however, Magistrate Judge Peebles recommends that the Court dismiss the case as frivolous without leave to re-plead, deny the Plaintiff IFP status for purpose of the appeal, and certify that any appeal from an order approving the Report-Recommendation would not be taken in good faith. See dkt. # 3.

Plaintiff filed timely objections to the Report-Recommendation pursuant to 28 U.S.C. § 636(b)(1). When objections to a magistrate judge's Report-Recommendation are

lodged, the Court makes a “*de novo* determination of those portions of the report or specified proposed findings or recommendations to which the objection is made.” See 28 U.S.C. §636(b)(1). After such a review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” Id.

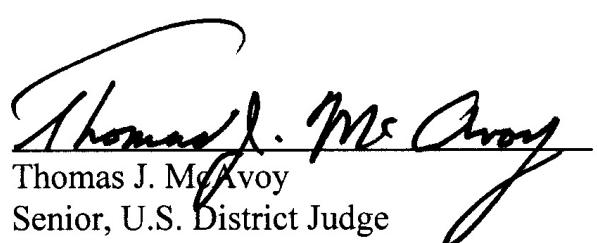
Having reviewed the record *de novo* and having considered the issues raised in the Plaintiff’s objections, this Court has determined to accept the recommendation of Magistrate Judge Peebles for the reasons stated in the Report-Recommendation.

Accordingly, the Report and Recommendation of Magistrate Judge Peebles, dkt. # 3, is hereby ADOPTED, and:

1. The Plaintiff’s Complaint, dkt. # 1, is DISMISSED as frivolous pursuant to 28 U.S.C. § 1915(e) and without leave to re-plead;
2. Plaintiff’s is DENIED IFP status for purposes of appeal; and
3. The Court certifies, pursuant to 28 U.S.C. § 1915(e)(3), that any appeal from this Order adopting the Magistrate Judge Peeble’s recommendation would not be taken in good faith.

**IT IS SO ORDERED.**

Dated: February 11, 2016

  
Thomas J. McAvoy  
Senior, U.S. District Judge